

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7458

BILL NUMBER: SB 526

NOTE PREPARED: Feb 11, 2011

BILL AMENDED: Feb 10, 2011

SUBJECT: Marion County Government.

FIRST AUTHOR: Sen. Merritt

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Fire Department Consolidation: The bill provides that on a date set by the mayor of the consolidated city and not later than January 1, 2013, the fire departments of all of the following are consolidated into the fire department of the consolidated city: (1) The townships in the county having the consolidated city. (2) A fire protection territory in the county having the consolidated city.

Excluded Cities: It also authorizes the consolidation of an excluded city's fire department into the fire department of the consolidated city if: (1) the legislative body of the excluded city, after approval by the executive of the excluded city, adopts an ordinance approving the consolidation; and (2) the legislative body of the consolidated city adopts an ordinance, approved by the mayor of the consolidated city, approving the consolidation.

Department of Public Safety: The bill specifies that the consolidated fire department and the consolidated law enforcement department are divisions of the department of public safety.

Maximum Property Tax Levy - Fire Protection: It provides that the maximum property tax levy of a consolidated city for property taxes first due and payable in 2012 shall be increased by an amount equal to the combined maximum property tax levies of each township and fire protection district for property taxes first due and payable in 2011 for fire protection and related services.

The bill also provides that for three years after a consolidation of a fire department, the consolidated city may levy a tax above the maximum property tax levy for the fire special service district in each township or

excluded city that is necessary to phase out borrowing for fire and emergency services, and that thereafter the tax rate for the consolidated fire department must be uniform within the entire service area served by the consolidated fire department.

Township Offices and Functions: The bill provides for the following transfers of township offices and functions to city and county government in a county having a consolidated city:

- (1) The operations of the township constables and township small claims courts shall be accounted for in the county budget beginning January 1, 2012.
- (2) The township duties and responsibilities concerning weed control and parks and recreation are transferred to the consolidated city on January 1, 2013.
- (3) Township trustees shall administer township assistance and maintain township cemeteries after December 31, 2013.
- (4) Township boards are abolished on January 1, 2013, with the county legislative body as their successor.
- (5) Township government is abolished on January 1, 2013, and statutes related to township government in a county having a consolidated city are repealed.

Township Tax for Indebtedness: It specifies that after abolition of a township government, the territory of the township comprises a taxing district for the payment of township indebtedness existing at the time of the abolition. It exempts from the property tax levy limits any amounts imposed by the consolidated city or the county to fund former township indebtedness.

Transfers: The bill provides that a transfer of duties between the townships and the county results in the transfer of property, equipment, personnel, records, rights, contracts, and indebtedness. It specifies that beginning July 1, 2011, the weed control board in a county having a consolidated city is the board of code enforcement.

Maximum Property Tax Levy - Township Transfer: The bill adjusts the maximum property tax levy for the county to account for the transfer of other township powers and duties.

Constable Training: It provides that each constable and deputy constable must successfully complete certain training courses. It also specifies that beginning July 1, 2011, the police powers of a constable are to: (1) make arrests under a court order or to maintain order in the court; (2) keep the peace in the court during court proceedings; and (3) carry out the orders of the court; and (4) to take any police action for which the constable has received law enforcement training.

Township Assistance: The bill provides that the City-county Council may, by ordinance, establish uniform standards for the provision of township assistance by each trustee throughout the county having a consolidated city.

Economic Interest Statement: It requires township trustees and constables in a county having a consolidated city to file an economic statement of interest form in the same manner required by the county legislative body for elected county officials. It provides that the city-county council may establish by ordinance other requirements for trustees and constables in the same manner as requirements for other elected county officials are established.

Department of Local Government Finance: The bill requires the Department of Local Government Finance (DLGF) to determine whether the balance in each fund (other than a debt service fund) of a township in a

county having a consolidated city exceeds the amount needed by the township to carry out the purposes of the fund. It specifies the factors to be considered by the DLGF in making the determination. It also requires the DLGF to adjust maximum permissible property tax levies and property tax rates as necessary to account for transfers of duties, powers, and obligations.

Excess Funds: The bill requires a township to transfer 90% of any excess amounts to the county treasurer for deposit in a fund that is administered by the controller of the consolidated city. It also provides that excluded cities are entitled to a part of the excess amounts that would otherwise be administered by the controller.

Transferred Funds: It specifies that money transferred from the townships may be used by the consolidated city or excluded city only upon appropriation by that municipality's fiscal body.

Building Authority: The bill specifies that in a county having a consolidated city, the annual operating budget of a building authority is subject to review and approval by the city-county legislative body.

Department of Law Enforcement: The bill specifies that the consolidated law enforcement department is under the direction and control of the Mayor. It provides that the City-County Council may adopt an ordinance to transfer the sheriff's responsibilities for emergency communications to a division of the department of public safety.

Board of Commissioners: The bill abolishes the Marion County Board of Commissioners effective July 1, 2011.

Budget Review: The bill deletes provisions specifying that in a county having a consolidated city, an ordinance or resolution of the legislative body: (1) appropriating money for a constitutional office or officer or for a judicial office or officer; or (2) approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review; is not subject to veto.

Local Option Income Taxes: The bill allows the City-County Council to elect to provide revenue to the public library from the certified distribution of County Option Income Tax (COIT) revenue.

Civil Taxing Unit Levy Appeal: The bill specifies that in a county having a consolidated city, a property tax levy appeal by a civil taxing unit, other than an excluded city, is subject to the review and approval of the county legislative body and is subject to veto by the county executive.

Library Board: The bill provides that the members of a library board serving a library district that is partly or fully within the boundaries of a consolidated city and fully within the boundaries of one county shall be appointed as follows: (1) Four members appointed by the executive of the county in which the library district is located. (2) Two members appointed by the majority leader of the fiscal body of the county in which the library district is located. (3) One member appointed by the minority leader of the fiscal body of the county in which the library district is located.

Effective Date: Upon passage; July 1, 2011; January 1, 2012; January 1, 2013.

Explanation of State Expenditures: *Law Enforcement Training Board:* The bill could increase costs for the Law Enforcement Training Board to create and offer a 40-hour training course for and keep a log of all constables and deputy constables who have been trained and receive badges. In addition, the Board would

provide a seven-hour annual course. The Board is required by statute to meet at least four times a year, but typically, the Board meets six times a year. Board members are entitled to a per diem and travel expenses related to Board service. [The Indiana Law Enforcement Academy (ILEA) received an appropriation of \$4.4 M in state General and dedicated funds for FY 2010 and FY 2011.]

Department of Local Government Finance: DLGF may incur additional cost to adjust the maximum permissible property tax levies and property tax rates of units to reflect transfers of duties and responsibilities, to review balances in township funds and determine if an excess balance exists, and to determine the amount to be transferred from the township fire general funds to the county fire general fund. The bill's requirements are within the DLGF's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary-* The bill has indeterminate fiscal impact on Marion County for the transfer of township powers and duties, and it will increase costs for constable training. The bill does not delete or diminish any responsibilities or administrative functions currently assigned in statute to township trustees, township boards, township small claims courts, or other entities, but rather transfers the responsibilities to the county. If the county can perform or contract for the performance of the duties and administrative functions of the townships or other consolidating entity more efficiently, cost savings will result.

In addition, the bill could provide cost-savings with the further consolidation of township fire departments. Audit results from townships that have voluntarily merged with the Indianapolis Fire Department indicate there are cost savings associated with merger. The potential cost-savings will vary based on the circumstance of the remaining township fire departments and the potential for further efficiencies.

Additional Details- Abolishing Townships: Township government in Marion County will be dissolved by the bill, and its duties and powers are conveyed to the county beginning on January 1, 2013. The seven-member township boards are abolished by the bill, and all functions, duties, and responsibilities of the township boards which have not already been consolidated are transferred to the county. The assets, property rights, equipment, records, personnel, and contracts are to transfer to the county, as well. Beginning on July 1, 2011, designees of the county executive will meet with the township trustees and small claims court judges to effectuate the transition. [Based on the 2009 township annual reports available for eight of the nine townships in Marion County, the median board member pay was \$6,932, ranging between \$3,000 and \$13,500.]

Township Trustees: The township trustee will continue to administer township assistance and cemeteries within the township and the county legislative body will adopt a county budget with funds to administer these responsibilities. Until the City-Council acts to create township assistance standards that would apply throughout the county, the township trustee develops township assistance standards for the township. The bill also allows the county executive to appoint a resident of the county to administer appeals concerning township assistance.

Consolidation of Fire Departments: Five township fire departments have or plan to merge with Indianapolis Fire Department under current law provisions for voluntary consolidation. According to an audit of the merger, for the five-year period 2006 to 2010, fire protection costs increased 9.8% in the consolidated townships, while costs in the other townships (including townships that will be merging) increased 18.9%.

Combined staffing levels for the consolidated townships is 2.7% less than prior to consolidation and 17 (27%) of management positions have been eliminated. The table below shows the fire-related fund expenditures by township. In addition to these common funds, Franklin Township spent \$624,692 from the Fire Building Debt Fund and Warren spent \$21,291 from its Fire Pension Fund.

2009 Fire-Related Fund Expenditures				
Township	Date of Consolidation	Fire Protection Fund	Cumulative Fire Fund	Fire Debt Fund
Center		0	0	0
Decatur		10,135,770	384,064	567,882
Franklin	7/1/2010	22,858,438	233,758	72,980
Lawrence	1/1/2011	19,115,189	943,921	0
Perry	8/1/2009	32,318,486	2,149,987	0
Pike		25,756,385	1,935,866	6,196,723
Warren	7/1/2007	1,988,573	1,923,534	0
Washington	1/1/2007	0	0	0
Wayne		45,180,600	448,185	0

Source: Township 2009 Annual Report, Part 3A.

Marion County Small Claims Courts: The judges of the small claims court will continue to be elected to a four-year term of office. After December 31, 2011, a small claims case may be heard in any small claims court. The county auditor will provide clerks for the small claims courts.

Judge Salaries: Full-time judge salaries are to be set by the City-County Council, and part-time judge salaries are to be determined by the city controller and approved by the City-county Council. Judge salaries are payable in 12 equal monthly installments.

Clerks: The bill repeals the salary floor of \$5,600 for small claims clerks and transfers responsibility for setting annual salary from the township to the county.

Constables: A small claims court constable and deputy constables are to annually file statements of economic interest and complete required initial and annual training. While the ILEA does not charge agencies for basic training, the schedule of fees for in-service training ranges between \$175 and \$375 for a 40-hour class. Differences in cost depend on residency at the ILEA

[Constables are currently paid from the service of process fee, which is \$13, whether delivered in person or by certified mail.]

County Board of Commissioners: In Marion County, the county treasurer, auditor, and assessor comprise the

county board to make certain appointments, exercise powers concerning the issuance and payment of bonds, and to exercise powers granted in the Indiana Constitution. The county officials serve as Commissioner ex-officio, meaning that they do not receive compensation specifically for serving on the Board. However, the City-County Council in setting compensation for these officers, could change their salary based on required responsibilities.

Explanation of Local Revenues: *Township District:* The township will retain its geographical boundaries and its name to pay any indebtedness of the township prior to being abolished.

County Township Assistance Fund: The county legislative body will estimate the cost of township assistance in the county and establish a uniform rate throughout the county. The funds collected for township assistance will be placed in the county township assistance fund.

County Cemetery Tax: The county may levy a county cemetery tax and the county fiscal body may approve purchases to create a fund to maintain cemeteries. If the tax is not levied or is insufficient, the county general fund may be used.

Township Fire Department and Fire Protection District Funds: The balance in a township fire debt service fund is transferred to the city to pay the indebtedness or lease rentals for which the fund was established. Any balance remaining after all payments are made is to be transferred to the county general fund. The townships' general fire fighting and fire cumulative fund balances also transfer to the city for deposit in like funds.

Maximum Property Tax Levies and Other Tax Distributions: The maximum levy is to be adjusted to reflect the transfer of fire protection responsibilities to the consolidated city. Distributive shares of taxes other than property taxes, such as local option income tax, financial institutions tax, and motor vehicle excise tax, will transfer to the city. From CY 2013 through CY 2018 the city would be permitted to levy an additional tax in each township to pay outstanding debt related to fire and emergency services in that township. Beginning in CY 2019, the city's fire tax rate must be uniform within the entire service area.

Excess Fund Balance: The township executive is to transfer 90% of any excess fund balance in a township fund (other than a debt service fund) as determined by the DLGF to the county treasurer. The county treasurer places the transferred amount in a dedicated fund that may be appropriated by the county fiscal body for acquiring, constructing, improving, or maintaining infrastructure in the township from which the balance was transferred.

Marion County Small Claims Court Fees: Court fees will remain unchanged, but will be paid to the county general fund, township small claims courts account. Fees collected for court administration and judicial salaries are to be deposited in the county general fund in an account for each small claims court. At the end of the fiscal year, any funds remaining in the account may be used for public safety programs as determined by the City-County Council. After December 31, 2014, 40% of the court administration fees are to be used for the operation of small claims courts. In 2009, Marion County small claims courts generated a total of \$4.5 M, including \$1.5 M in state funds, \$123,000 in county funds, and \$2.9 M in local funds. The local funds would instead go to the county under the bill. Additionally, in 2009, Marion County small claims courts received \$574,000 for serving process by certified mail and almost \$1.1 M for service of process by personal service. These amounts are to be paid directly to the constables.

Local Option Income Taxes: Under current law, Marion County may use part of its COIT distribution to fund homestead credits, the Metropolitan Emergency Communications Agency (MECA), and the IndyGo

transportation service. Currently, Marion County provides homestead credits and funds MECA, but does not fund IndyGo with COIT revenue.

The remaining COIT revenue is distributed to several civil taxing units (not schools) under a formula that applies only in Marion County. The current formula allocates a share of COIT revenue to each township, each of the four excluded cities, and a combined Indianapolis/Marion County. The included towns, libraries, and special taxing units do not directly receive a share of the revenue. The COIT revenue is allocated to receiving units via a formula that is largely based on the maximum levies of those units. The maximum levy used in the formula for Indianapolis/Marion County is equal to the sum of the maximum levies of the city and county, plus all of the civil taxing units that do not receive a direct share.

This provision would essentially transfer the townships' portions of certified shares to the city/county. The increase for the city/county and reduction for the townships would be about \$11.2 M after taking into account current transfers under interlocal agreements related to fire department mergers.

In addition to the ability to fund homestead credits, MECA, and IndyGo, this bill would permit funding operation of the Indianapolis-Marion County Public Library (IMCPL) beginning in CY 2012. The library board may make a recommendation on funding. The City-County Council would adopt an ordinance specifying the amount of funding, if any, that the IMCPL would receive.

A distribution to the IMCPL would reduce the available amount of certified shares allocated to civil taxing units in Marion County. In CY2011, Marion County will receive \$154.6 M in COIT revenue. Of that amount, \$8.7 M will be used for MECA funding and \$13.2 M will fund homestead credits, leaving about \$132.6 M for distribution to taxing units as certified shares.

The following table contains the percentage of COIT certified shares that each taxing unit is likely to receive in CY 2012 under current law. These percentages also reflect transfers at current levels between units under interlocal agreements related to fire department mergers. In addition, the table shows an estimate of the percentage of certified shares that each taxing unit is likely to receive in CY 2013 and later under this bill. If the City-County Council funds the IMCPL with COIT revenue under this provision, the reduction in certified shares would be roughly allocated among the taxing units according to these percentages. The actual fiscal impact would depend on action taken by the City-County Council.

Percentage of Total Certified Shares by Taxing Unit		
Taxing Unit	CY 2012	CY 2013+
Indianapolis / Marion County	88.66%	97.23%
Center Township	1.44%	0.00%
Decatur Township	0.42%	0.00%
Franklin Township	0.33%	0.00%
Lawrence Township	0.81%	0.00%
Perry Township	0.46%	0.00%
Pike Township	1.92%	0.00%
Warren Township	0.48%	0.00%
Washington Township	0.44%	0.00%
Wayne Township	2.18%	0.00%
Lawrence Civil City	1.13%	1.13%
Beech Grove Civil City	0.92%	0.87%
Southport Civil City	0.03%	0.03%
Speedway City Civil Town	0.80%	0.74%
Total	100.00%	100.00%
Amounts may not total due to rounding		

State Agencies Affected: ILEA; DLGF.

Local Agencies Affected: Marion County.

Information Sources: Policy Analytics, LLC, *Indianapolis/Marion County Fire Service Consolidation Performance Audit*, October 20, 2010; 2009 Annual Reports available at www.in.gov/itp/.

Fiscal Analyst: Karen Firestone, 317-234-2106; Bob Sigalow, 317-232-9859.